THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 2245 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/09/2003 in WP NO : 14852 OF 2003 on the file of the High Court.)

Between:

1. The Govt. of AP, rep by its Principal Secretary to Government,

Higher Education Department, Secetariat Buildings, Saifabad,

Hyderabad
2. The Commissioner and Director of Collegiate Education, Andhra

Pradesh, Hyderabad.
3. The Regional Joint Director of Higher Education, Rajahmundry EG

District

APPELLANTS

AND

1. Smt.K.Jhansi lakshmi, Lecturer in Chemistry, Ideal College Kakinada
2. The Secretary & Correspondent, Ideal College of Arts and Science Kakinada

RESPONDENTS

Counsel for the Appellant: GP FOR HIGHER EDUCATION

Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court made the following:

JUDGMENT : (Per Honorable Smt. Justice T.Meena Kumari)

This writ appeal is filed by the official respondents 1 to 3 -appellants herein aggrieved by the order in W.P. No:14852 of 2003, under which the learned single Judge allowed the said writ petition as indicated therein.

The 1st respondent herein is the writ petitioner. Originally, she has filed the writ petition seeking to set aside the order of the 1st respondent. The learned single Judge having observed that the petitioner has been working on par with all equated lecturers i.e., more than 20 hours per Weeks and when once the post of the petitioner has been regularized, she is entitled for regularization from the date of her initial appointment, allowed the writ petition directing the respondents to admit the petitioner who is working as Lecturer in Chemistry in the 4th respondent college to the grant in aid post from 18.10.1993 with all consequential benefits. Having aggrieved by the same, the present writ appeal is preferred by the appellants.

Heard the learned counsel on either side.

It is contended by the learned G.P. appearing for the appellants that the writ petitioner is not entitled to the relief in this writ petition in view of the fact that she has already withdrawn the writ petition in W.P.No:34933 of 1998 seeking to regularize her service with effect from 16.10.1998 and the same was dismissed on 17.2.2003 as withdrawn.

It is further contended by the learned G.P. that W.P.13395 of 2001 filed by the petitioner was disposed of on 4.7.2001 directing the appellants to consider the representation of the petitioner dated 19.4.2000. Pursuant to the said direction, G.O.Rt..No:862 has been issued on 21.11.2001 regularizing the services of the petitioner and directing absorption to grant in aid against the vacant post with prospective effect from the date of issuance of the orders and the said G.O. has not been challenged and thereby, it has become final.

It is further contended that subsequent to the regularization of her services under G.O.Rt.No:862, the petitioner has chosen to withdraw W.P.34933 of 1998 on 17.2.2003. It is further contended that at the time of dismissal of W.P.34933 of 1998 as withdrawn, no liberty is granted to the petitioner to agitate her rights and therefore, the order in G.O.Rt.No:862 has become final and consequently, the petitioner cannot maintain this writ petition.

On the contrary, the learned counsel for the petitioner contended that even though the earlier writ petition in W.P.34933 of 1998 was dismissed as withdrawn and no liberty has been given to agitate the rights, this writ petition is maintainable on the ground that the petitioner has not chosen to accept the G.O.Rt.No:862 in toto. It is further contended by the learned counsel that since there was no action on the representation of the petitioner dated 6.1.2003, she has filed W.P.3198 of 2003 seeking to regularize her services with retrospective effect and the said writ petition was disposed of with a direction to pass orders on the representation dated 6.1.2003 within a period of three months. But, however, the respondents have rejected the claim of the petitioner on 20.3.2003. It is further contended that challenging the said order dated 20.3.2003, the present writ petition has been preferred and the same was allowed by the learned single Judge and consequently, the present appeal has been preferred by the respondents. It is further contended that the order of the learned single Judge, is sustainable and it cannot be interfered with.

We have perused the order impugned and the entire material available on record.

The undisputed facts are that pursuant to the orders of this Court in W.P.13395 of 2001, the Government has issued G.O.Rt.No:862 on 21.11.2001 regularising the services of the petitioner and absorbing her to grant in aid against the vacant post with prospective effect from the date of issuance of the orders. Basing on that, the services of the petitioner were regularized under orders in R.C.No:317/Admn/III-3/2000 with effect from 19.2.2002. Consequently, the writ petition in W.P.34933 of 1998 filed by the petitioner seeking for regularization with effect from 16.10.1998, was withdrawn by her.

There is also no dispute that G.O.Rt.No:862 has not been challenged at any time. At the time of withdrawal of W.P.34933 of 1998 by the petitioner, no liberty was granted by this Court to agitate her rights before any forum.

But, the above instances have not been considered by the learned single Judge while allowing the writ petition. In this view of the matter and in view of the withdrawal of earlier writ petition and in view of non challenging of the G.O.Rt.No:862, We feel that the order of the learned single Judge, is not justified and the same is liable to be set aside.

Accordingly, the writ appeal is allowed and the order of the learned single is set aside. No costs.

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Justice T.Meena Kumari

Date : 15th February, 2005

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Justice S.Ananda Reddy

Dvs/Gurc.

Copies to:

1. The Principal Secretary to Government, The Govt. of AP,

Higher Education Department, Secetariat Buildings, Saifabad,

Hyderabad

2. The Commissioner and Director of Collegiate Education, Andhra

Pradesh, Hyderabad.

3. The Regional Joint Director of Higher Education, Rajahmundry EG

District

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THE HONOURABLE SMT. JUSTICE T. MEENA KUMARI

&

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A. No.2245 of 2003

(Judgment delivered by the Honourable

Smt.Justice T. Meena Kumari)

15th February, 2005